



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG-2012-0169]

RIN 1625-AA08

Special Local Regulation for Marine Events, Chesapeake Bay
Workboat Race, Back River, Messick Point; Poquoson,
Virginia

AGENCY: Coast Guard, DHS.

ACTION: Temporary Final rule.

SUMMARY: The Coast Guard will establish a special local regulation during the Chesapeake Bay Workboat Race, a series of boat races to be held on the waters of Back River, Poquoson, Virginia. Because this event will consist of approximately 75 powerboats conducting high-speed competitive races on the waters of Back River, this regulation is necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in portions of the Back River, Messick Point, Poquoson, Virginia during the event.

DATES: This rule is effective from 11 a.m. until 5 p.m. on June 24, 2012, with a rain date of July 8, 2012 from 11

a.m. until 5 p.m.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG-2012-0169]. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail LCDR Hector Cintron, Waterways Management Division Chief, Sector Hampton Roads, Coast Guard; telephone 757-668-5581, e-mail Hector.L.Cintron@uscg.mil. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On April 2, 2012, we published a notice of proposed rulemaking (NPRM) entitled Special Local Regulation for

Marine Events, Chesapeake Bay Workboat Race, Back River, Messick Point; Poquoson, Virginia in the Federal Register (76 FR 093). We received 02 comments on the proposed rule. No public meeting was requested, and none was held.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register. Due to the need for immediate action, the restriction of vessel traffic is necessary to protect life, property and the environment during the workboat race event; therefore, a 30-day notice is impracticable. Delaying the effective date would be contrary to the safety zone's intended objectives of protecting persons and vessels involved in the event, and enhancing public and maritime safety.

Background and Purpose

On June 24, 2012, the Chesapeake Bay Workboat Race Committee will sponsor the "2012 Chesapeake Bay Workboat Races" on the waters of Back River. The event will consist of approximately 75 powerboats conducting high-speed competitive races on the waters of Back River, Messick Point, Poquoson, VA. A fleet of spectator vessels is expected to gather near the event site to view the competition. To provide for the safety of participants,

spectators, support and transiting vessels, the Coast Guard will temporarily restrict vessel traffic in the event area during the races to provide for the safety of participants, spectators and other transiting vessels.

Discussion of Comments and Changes

The Coast Guard did receive 02 comment in response to the notice of proposed rulemaking (NPRM) published in the Federal Register. No public meeting was requested and none was held. What follows is a review of, and the Coast Guard's response to, the issue that was presented by the commenter concerning the proposed regulations.

The commenter, Annette D. Firth of Chesapeake Boat Workboat Race Committee, who is the event organizer, stated that they the committee would like to add a rain date to the regulation to provide for inclement weather. Rain date was added for July 8, 2012. A second comment was unrelated to regulation. Accordingly, the Coast Guard is establishing a special local regulation on specified waters on the Back River, Poquoson, Virginia and we feel that adding a rain date to the effective period described in the proposed rule as suggested by the commenter will not adversely affect waterway users in this portion of the Back River on July 8, 2012.

Discussion of the Final Rule

The Coast Guard is establishing a temporary special local regulation on specified waters of the Back River, Messick Point in Poquoson, Virginia. The regulated area will be established in the interest of public safety during the "Chesapeake Bay Workboat Race", and will be enforced from 11 a.m. to 5 p.m. on June 24, 2012, with a rain date of July 8, 2012 from 11 a.m. until 5 p.m. The Coast Guard, at its discretion, when practical, will allow the passage of vessels when races are not taking place. Except for participants and vessels authorized by the Captain of the Port or his Representative, no person or vessel may enter or remain in the regulated area.

This regulation will establish an enforcement location to include all waters of the Back River, Poquoson, Virginia, bounded to the north by a line drawn along latitude 37°06'30" N, bounded to the south by a line drawn along latitude 37°16'15" N, bounded to the east by a line drawn along longitude 076°18'52" W and bounded on the west by a line drawn along longitude 076°19'30" W.

Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below

we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. Although this rule prevents traffic from transiting a portion of certain waterways during specified times, the effect of this regulation will not be significant due to the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via marine information broadcasts, local radio stations and area newspapers so mariners can adjust their plans accordingly.

Impact Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The Coast Guard received no comments

from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit this section of the Back River from 11 a.m. until 5 p.m. on June 24, 2012, with a rain date of July 8, 2012 from 11 a.m. until 5 p.m.

This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons. This safety zone would be activated, and thus subject to enforcement, for only 6 hours. Vessel traffic could pass safely around the safety zone. Before the activation of the zone, we would issue maritime advisories widely available to users of the river.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its

provisions or options for compliance, please contact LCDR Hector Cintron. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

This rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520.).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for

inflation) or more in any one year. Though this rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (34)(h), of the Instruction. This rule involves implementation of regulations within 33 CFR Part 100 that apply to organized marine events on the navigable waters of the United States that may have potential for negative impact on the safety or other interest of waterway users and shore side activities in the event area. The category of water activities includes but is not limited to sail boat regattas, boat parades, power

boat racing, swimming events, crew racing, and sail board racing. .

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100--SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

2. Add a temporary section, § 100.35-T05-0169 to read as follows:

§ 100.35T05-0169 Special Local Regulations; Marine Events; Back River, Poquoson, VA.

(a) Regulated area. The following location is a regulated area: Includes all waters of the Back River, Poquoson, Virginia, bounded to the north by a line drawn along latitude 37°06'30" N, bounded to the south by a line drawn along latitude 37°16'15" N, bounded to the east by a line drawn along longitude 076°18'52" W and bounded on the west

by a line drawn along longitude 076°19'30" W. All coordinates reference Datum NAD 1983.

(b) Definitions: (1) Coast Guard Patrol Commander means a commissioned, warrant, or petty officer of the U. S. Coast Guard who has been designated by the Commander, Coast Guard Sector Baltimore.

(2) Official Patrol means any vessel assigned or approved by Commander, Coast Guard Sector Baltimore with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(c) Special local regulations: (1) The Coast Guard Patrol Commander may forbid and control the movement of all vessels and persons in the regulated area. When hailed or signaled by an official patrol vessel, a vessel or person in the regulated area shall immediately comply with the directions given. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(2) All Coast Guard vessels enforcing this regulated area can be contacted at telephone number 757-668-5555 or on marine band radio VHF-FM channel 16 (156.8 MHz).

(3) The Coast Guard will publish a notice in the Fifth Coast Guard District Local Notice to Mariners and issue a marine information broadcast on VHF-FM marine band radio announcing specific event date and times.

(d) Enforcement period: This section will be enforced from 11 a.m. to 5 p.m. on June 24, 3012, with a rain date of July 8, 2012 from 11 a.m. to 5 p.m.

Dated: May 31, 2012

Mark S. Ogle
Captain, U.S. Coast Guard
Captain of the Port Hampton Roads

[FR Doc. 2012-14379 Filed 06/12/2012 at 8:45 am; Publication Date: 06/13/2012]